

22 November 1976

MEMORANDUM FOR THE RECORD

SUBJECT: [REDACTED]

Following are informal comments on the draft revisions of [REDACTED]

a. The use of "Staff Agents" will require at least Confidential classification. Could the term "employees with staff status" be substituted and cover both employees and agents? (NB - DDCU considering this program.)

The detailed instructions on the handling of death reports seems a bit much for an introductory paragraph on separations, granting death is a separation. I think the detailed coverage of the subject in [REDACTED] is more appropriate - choice depends on an esoteric decision - is death voluntary or involuntary?

b(1) If the statement following "quoted below" is an actual quote there should be quotation marks around it.

b(2) This section as written appears to be redundant in terms of the explanations in (1) and (3). I recognize that it is not exactly the same authority and that the National Security Act is "in interest of the United States" and this is a straight termination authority but I think for the purposes of this regulation it might be clarified. If the suggestion to combine or redo the (1) and (3), this clarification might naturally develop.

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b(3) We note that both paras (1) and (3) deal with the National Security Act . . . couldn't they be combined or put in sequence? It appears much of para (3) is a direct quote. If this is the case, it must be made clear with quotation marks. As it reads now the statement, "authority cited in a.(1) preceding" has no reference.

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Page 4

[redacted] a(1) We recognize that [redacted] gives information on exit processing but inasmuch as this is a separate regulation we wonder is perhaps a reference to the location of processing instructions shouldn't be included here. We also question if, having identified so many varieties of separations, we should ^{also} give guidance or information on inter-Agency separations with Agency reemployment rights. It is a type of separation.

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[redacted] Throughout this regulation I have a problem with the use of probationer. We have normally used "trial period" for the first year of employment with probationer being the key word when an individual has not been performing up to snuff and is being "put on probation" with the opportunity to upgrade performance.

Page 6

a. The statement here is that any one in CIARDS will automatically be separated upon reaching age 60. This is not true for GS-17s and GS-18s - may be extended beyond for five and ten years respectively.

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c. While the termination of contract employees is governed by the terms of the contract, we wonder whether it would not be appropriate to include that the circumstances that surround involuntary separation of a staff employee would be pretty much applied to terminations of contract employees. Given the atmosphere of the world today, I can see a contract employee filing a grievance if terminated capriciously. Believe whole section on contracts is out of order - it is a procedure, not a reason. ?

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d. Subpara (1) provides for termination on grounds of a criminal act - again in today's atmosphere I suspect this should be "conviction for the commission of a criminal act." Might check OGC. OLD REV

Substatements should be numbered instead of lettered.

Suggest (e) through (k) might be sublisted under "Standards of Conduct" as opposed to (a) through (d) which are more administrative in nature. PERHAPS

Page 7

j. Personal misconduct is also vague in today's world. Do we have any standards for what constitutes "personal misconduct"? OLD REV

Page 7

d. (Returning to d) The formatting here after the (a) - (k) list poses problems. The simple insertion of a sentence and then a beginning with (1), in effect following (k) above won't wash. It could be started as a new subparagraph (X) but (e) really doesn't work either, given the subjects of current (e) and following paragraphs. A new paragraph lead in could be: "DEFINITIONS (or CRITERIA). The following are definitions for use in determining actions in (a) through (k) above . . .". ✓

However, the following (1) through (3) are really more procedures than definitions, and probably could be formatted differently . . . even adding in on the (a) - (k) list by the appropriate parts.

Page 8

d(3) If this section stays as is, suggest some edit ^{items} ~~times~~ . . . recommend delete "if the matter is of a serious nature" . . . One presumes when a case gets to the D/Pers, it is serious, or at least is considered serious . . . and would require consultation with the DD concerned . . . if only to explain why it isn't serious. Not sure when an investigation wouldn't be required . . . otherwise how does one make the decision. The last sentence implies that the D/Pers can separate without going to the DCI . . . except for trial year cases, I though they all had to go to DCI.

OLD
REV

Page 9

f. Who determines the surplus status and who makes effort to find the new job? All other sections in this area put this responsibility on some one . . . even if it is ^{by} a court action.

✓

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g. Presume the 3% is approved by EAG . . . or is this proposal? What is the "administrative action" when in the bottom three per cent a second year? If the following sentence is the action, think this could be left out. This para needs to be worded carefully so the employees being counseled are not those removed from the notification list. Perhaps this para should be tied to the employee handbooks.

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Page 11

h. Suggest the first sentence say "disability separations" instead of "disability retirements." There is no retirement if the disability occurs in the first 18 months of federal employment.

✓

Page 10

i. Not sure I would include the CSC discussion inasmuch as we make much of not being part of the competitive service - their procedures or guidances. Suggest it be stated as another one of our policies and then procede with the retirement benefits . . . our ways of letting people get out early when they aren't qualified under the retirement systems, per se. ✓

Page 11

k(2) Edit to eliminate two "suchs" in same sentence, both with different meanings. ✓

k(3) This is a direct from the old regulation, but think it should be checked. It may be policy but actual practice is that OMS recommends to the component and the component then recommends to the D/Pers . . . in other words, management must make the decision. (Unless EOD'd subject to medical clearance and then it may be OMS decision.) ?

Page 12

1. This paragraph appears to be more PROCEDURES than POLICY. ^{OLD}_{Feb}
And not sure how the 1 got here when it seems to be in the sequence of 1 and m. If this suggestion is adopted the "m." PROCEDURES is unnecessary. Just begin with SURPLUS as a (1) or whatever it works out when properly formatted.

Page 12

(1) This seems terribly repetitive when reviewed with para f before. Suggest f be reduced in coverage. ^{OLD}_{Feb}

Believe Head of Career Service is preferable in this instance to DD. Not sure if DDCI wants to operate for the Independent Offices or let them go on this own . . . would have to be checked.

Should (a) under this provide for Agency surplus as well as Directorate or office? . . . on the other hand, the surplus does begin at the Directorate level.

Page 13 (1)(b) Use of DD again. . . think the whole thing should go Career Service Head as the terms Career Service are used throughout.

Page 13 (c) In last sentence recommend eliminating appropriate officer of the Office of Personnel. One assumes it would be appropriate and would be a decision of the D/Pers . . . hence think "officer" alone is sufficient . . . unless one wants to specify the ^{part} office. *(We are awarding this as much as possible in re-do)*

Page 14 (d) The D/Pers does not assign personnel in the context of this paragraph . . . he recommends, cajoles, urges, etc. . . . and approves the assignment ^{action}. Propose "locate or find an assignment."

Page 14 (e) Having provided for an employee's rebuttal in the para above, this appears to be going ahead without it.

Page 14 (e)(1) Repetitious with the material above this section. Edit out some his' . . . appears the DCI is terminating his own employment . . . Noon, January 20th, perhaps!

Page 14 (e)(2) How can the DCI approve in part . . . if the first recommendation, approval of surplus status, is OK'd, it would appear the other two steps follow. If surplus, but "find another job." employee really isn't surplus, is he?

Page 15 (2) OTHER INVOLUNTARY sort of hangs here. Might revise and put it first as the system for separation for all involuntary except surplus. ? It is really the basic procedure for involuntary separation . . . only the surplus, which comes first in the draft, is the exception and would normally follow after.

Page 16 (2)(d) Shouldn't the employee be advised in writing . . . this section states "advise" but not form of the advice.

Page 16 (2)(e) Repetitious . . . couldn't reference be made to the earlier coverage?

Page 17 (3) Have now lost track and it's not material at this point in the revision, but don't think this should stand as a equal to SURPLUS or OTHER INVOLUNTARY. It is not INVOLUNTARY . . though it may originate from the involuntary base. It is sort of a wrap up item.

Is the last sentence of this paragraph a policy or practice?
I think the Agency policy unless the reason for termination is horrendous, is to say "satisfactory" . . . so responding to other inquiries may be a bit too broad in implication.

OVERALL COMMENTS:

As now written only males can be terminated, but then again only males can run things. ^{with revision} We have an edited along the way to remove this discrimination, women should be able to either run it or ruin it along with the males.

As noted along the way of the notes, but in a rather confused say, I fear, there appears to be a fair amount of repetition. I think another crack at organizing the material and the sequence of coverage should eliminate much of the repeat material.